

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL CASE NO. 3:08cv507**

**PAUL D. CARTY,**

**Plaintiff,**

**vs.**

**WESTPORT HOMES OF NORTH CAROLINA,  
INC., WNPC DEVELOPMENT, L.L.C., JOHN B.  
SCHEUMANN, STEVEN M. DUNN, and  
CHARLES D. SCHEUMANN,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court on the Motion to Dismiss of Defendants Westport Homes of North Carolina, Inc. and WPNC Development, L.L.C. [Doc. 7, filed December 11, 2008] and the Motion to Dismiss of Defendants John B. Scheumann, Steven M. Dunn and Charles D. Scheumann [Doc. 9, filed December 11, 2008]. Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge David C. Keesler was designated to consider these motions and to submit recommendations for their disposition.

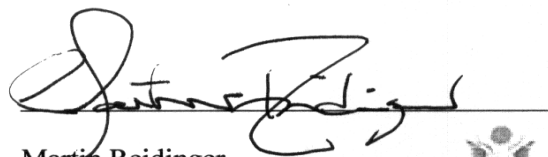
On April 20, 2009, the Magistrate Judge filed a Memorandum and Recommendation in which he recommended denying the motions to

dismiss without prejudice as moot. [Doc. 37]. The parties were advised that any objections to the Magistrate Judge's conclusions and recommendations were to be filed in writing within ten days of service of the Recommendation and that failure to file objections to the Memorandum and Recommendation would preclude the parties from raising any objection on appeal. [Doc. 37 at 3-4]. The period within which to file objections expired on May 7, 2009 and no written objections to the Memorandum and Recommendation have been filed.

Having reviewed the Memorandum and Recommendation, the undersigned concludes that the Magistrate Judge's recommendation is supported by the record and the law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation.

**IT IS, THEREFORE, ORDERED** that the Motion to Dismiss of Defendants Westport Homes of North Carolina, Inc. and WPNC Development, L.L.C. [Doc. 7] and the Motion to Dismiss of Defendants John B. Scheumann, Steven M. Dunn and Charles D. Scheumann [Doc. 9] are hereby **DENIED** without prejudice as moot.

Signed: May 18, 2009

  
Martin Reidinger  
United States District Judge

